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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,927	10/24/2000	Victor T. Huang	8863.73US01	1712

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EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

18

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

21-18

Office Action Summary

Application No.
09/694,927

Applicant(s)
Huang et al

Examiner
Lien Tran

Art Unit
1761



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 4, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-14, and 16-27 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-14, and 16-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 14 6) ☐ Other:

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1. Claims 1-4 and 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague and indefinite. Line 1 recites a dough or batter composition; however, line 3 recites only the dough composition when baked. Does the batter composition when baked have the property claimed on line 4?

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-3,9,10,11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Katta et al.

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Katta et al disclose a dough composition and baked good obtained from the dough composition. The dough comprises flour, sugar and water. The dough additionally comprises sweeteners such as lactose, honey or fructose syrups. The dough is used to form individual cookie having a thickness ranging between 2 mm and about 20 mm. (See column 5)

Katta et al disclose a dough composition and baked product containing the same ingredients as claimed. Lactose is a crystalline hydrate former. The properties as claimed are inherent in the Katta et al product because it is made of the same ingredients as claimed.

4. Claims 4,7-8,14,16-19 and 20-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katta et al in view of Savage and Taylor et al.

The teaching of Katta et al is described above.

Katta et al do not disclose forming the cookie in the shapes claimed, putting a filling in a cookies, the crystalline hydrate former as claimed and corn syrup having the DE as claimed.

Savage discloses a cookie having a cupped shape to facilitate placement of a scoop or ice cream or other confectionary (see column 8).

Taylor et al teach compatible sugars which may be added to cookie composition include sucrose, fructose, lactose, dextrose, galactose, maltodextrin, corn syrup solids and hydrogenated starch hydrolysate. (See col. 6)

It would have been obvious to one skilled in the art to make the cookie of Katta et al to have different shape such as taught by Savage so that different filling can be inserted into the cookie to obtain different novelty products having different taste and flavor due to the different

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fillings that can be put into the cookie. It would also have been obvious to use different sugars including maltodextrin and corn syrup solids depending on the flavor desired as Taylor et al show there are many other types of sugar that can be added to cookie composition. The DE selected depends on the degree of sweetness desired; if it is desired to have a low degree of sweetness, it would have been obvious to select one having low DE or vice versa. This is an obvious matter of preference. The amount to be use depends on the flavor, taste, sweetness desired and can readily be determined by one skilled in the art. The types of filling would have been an obvious matter of choice.

5. Applicant's arguments with respect to claims 1-4,7-14 and 16-27 and the declaration have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

June 28, 2002


LIEN TRAN
PRIMARY EXAMINER
Group 1700